

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

1981 JUL 30 PM 12 27

CLERK, U.S. DISTRICT COURT

MIDWAY MFG. CO., a corporation,

Plaintiff,

vs.

ARTIC INTERNATIONAL, INC., a
corporation,

Defendant.

80 C 5863
Judge Decker

REQUEST FOR ADMISSIONS

ARTIC INTERNATIONAL, INC., a
corporation,

Counterclaim Plaintiff,

vs.

MIDWAY MFG. CO., a corporation, and
BALLY MANUFACTURING CORPORATION, a
corporation,

Counterclaim Defendants.

DOCKETED
JUL 31 1981

Defendant requests that Plaintiff admit to the following facts:

1.. That Namco, Ltd. sold GALAXIAN game machines without restrictions on or about October 21, 1979 in Japan.

2. That the GALAXIAN game machines sold by Plaintiff's licensor, Namco, Ltd., in Japan on or about September 15, 1979 did not bear a copyright notice of any kind.

3. That those Namco GALAXIAN game machines referred to above in Request Number 2, had video screens and on those screens appear images substantially similar to those produced on Midway's GALAXIAN game machine.

4. That on or about October 19, 1979, at least one of the Namco game machines referred to in Request Number 1, produced on its video screen at a public display, series of images substantially similar to those produced on Midway's GALAXIAN game machines. *

5. That at least one series of images referred to in Request Number 4 was not recorded on videotape or otherwise.

6. That Namco, Ltd. sold PUCKMAN game machines without restrictions on or about May 22, 1980 in Japan.

7. That the PUCKMAN game machines sold by Plaintiff's licensor, Namco, Ltd., in Japan on or about May 22, 1980 did not bear a copyright notice of any kind.

8. That those Namco PUCKMAN game machines referred to in Request Number 7 above had video screens and on those screens there appear images substantially similar to those produced on Midway's PAC-MAN game machine.

9. That on or about May 22, 1980 at least one of the Namco game machines referred to in Request Number 6 produced on its video screen at a public display, a series of images substantially similar to those produced on Midway's PAC-MAN game machines.

10. That at least one series of images referred to in Request Number 9 was not recorded on videotape or otherwise.

11. That the work of Copyright Registration No. PA-59-977 portrays a video game machine.

12. That the work of Copyright Registration No. PA-68-323 portrays a video game machines.

13. That the work of Copyright Registration No. PA-83-768 portrays a video game machine.

14. That the circuit boards sold by Artic International, Inc. and alleged to be infringing or infringements, are a useful article.

15. That the circuit boards sold by Artic International, Inc. and alleged to be infringing or infringement had Read Only Memory (ROM) integrated circuit elements used by the computer video games when such games are operated.

16. That the ROMs referred to in Request No. 15 are each physically modified in accordance with a computer program.

17. That the ROMs referred to in Request No. 15 become a part of the functioning computer when the circuit board referred to in Request No. 15 is operationally installed in a commercial game machine.

18. That the game machines portrayed in the works of Copyright Registrations Nos. PA-59-977, PA-68-323, and PA-83-768 each include a digital computer.

19. That the xerox copies of documents produced by Plaintiff in response to discovery requests are accurate copies of documents from its files.

20. That Namco, Ltd. of Japan sold thousands of GALAXIAN video game machines from the middle of September 1979 until November 13, 1979.

21. That Namco, Ltd. of Japan sold thousands of GALAXIAN video game video game machines prior to February 2, 1980.

22. That the game machines referred to in Request No. 20 were sold by Namco, Ltd. free of any contractual restraints that would limit the place or country of use.

23. That the game machines referred to in Request No. 21 were sold by Namco, Ltd. free of any contractual restraints that would limit the place or country of use.

24. That at the time of making the sales referred to in Request No. 21, Namco, Ltd. had all right, title and interest in the copyrights asserted by Plaintiff in this action and registered as PA-59-977 and PA-68-323.

25. That at the time of making the sales referred to in Request No. 20, Namco, Ltd. had all right, title and

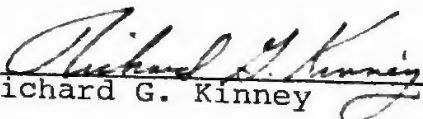
interest in the copyrights asserted by Plaintiff in this action and registered as PA-59-977 and PA-68-323.

26. That the Namco, Ltd. of Japan GALAXIANS referred to in Request No. 21, which have been imported into and used in the U.S.A., are not infringing or an infringement of PA-59-977 and PA-68-323.

27. That any of the Namco, Ltd. of Japan GALAXIANS referred to in Request No. 22 which were imported into and used in the U.S.A. are not an infringement of PA-59-977 and PA-68-323.

28. That a Namco, Ltd. Galaxian machine made, sold, and imported into the U.S.A. prior to the assignment of copyright by Namco, Ltd. to Plaintiff is licensed under the Galaxian copyrights asserted.

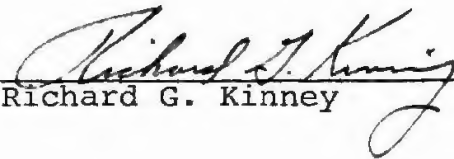
ARTIC INTERNATIONAL, INC.

by  }
Richard G. Kinney

Richard G. Kinney
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CERTIFICATE OF SERVICE

This is to certify that on 29 July 1981, a copy of the foregoing REQUEST FOR ADMISSIONS was delivered by hand to the offices of Fitch, Even, Tabin, Flannery & Welsh, 135 S. LaSalle Street, Chicago, Illinois 60603.


Richard G. Kinney